

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB649)**

Received: **04/19/2010**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Brian Dake**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - energy**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Montgomery@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Maintain current law on Focus on Energy program and related changes

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mkunkel 04/19/2010	kfollett 04/20/2010	phenry 04/20/2010	_____	sbasford 04/20/2010	sbasford 04/20/2010	

FE Sent For:

**<END>**

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**Topic:**

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See attached

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/?	mkunkel	11/5F 4/20	4/20 ph	4/20 ph/v			

FE Sent For:

<END>

## Kunkel, Mark

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**From:** Miller, Steve  
**Sent:** Monday, April 19, 2010 4:26 PM  
**To:** Kunkel, Mark  
**Subject:** FW: First List - Amendments to ASA 1 to AB 649

**Attachments:** AB 649 Amendments List 1.xls; Leg Council Memo Huebsch AB 649.pdf; Leg Council Memo Black-Soletski AB 649.pdf

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**From:** Dake, Brian  
**Sent:** Monday, April 19, 2010 4:24 PM  
**To:** Miller, Steve  
**Subject:** First List - Amendments to ASA 1 to AB 649

Steve,

Good afternoon.

Pursuant to our conversation, please find attached:

1. A list of Amendments to be drafted to ASA 1 to AB 649. Please contact Brian Dake in Representative Montgomery's Office 266-5840 to answer any questions. I will be here until midnight and will be back in the office by 8 am tomorrow.
2. A Legislative Council Memorandum to Rep. Huebsch
3. A Legislative Council Memorandum to Reps. Black and Soletski

The Legislative Council memoranda were used as references for the drafting of each of the amendments.

Any questions, please call me.

Brian Dake  
Office of Rep. Montgomery  
266-5840



AB 649  
endments List 1.xls



Leg Council Memo  
Huebsch AB 64...



Leg Council Memo  
Black-Soletsk...

## **Amendments for Global Warming Bill AB 649/SB 450**

### **Based on April 15, 2010 Leg Council Memo to Rep. Huebsch**

Delete provision expanding the Energy Efficiency program to include unregulated fuels - LP Gas and Heating Oil  
Maintain Current Law with respect to Focus on Energy (Delete 2% Electricity Consumption Standard and 0.2% ARTS)  
Return RPS to current law and federalize (re-draft Huebsch amendment LRB 2220/1)  
Delete provision that creates legislative findings to lay out basis for in-state portion of RPS (re-draft Huebsch amendment LRB 2216/1)  
End the Nuclear Power Moratorium (re-draft Huebsch Amendment LRB 2222/1)  
Return all nuclear power plant provisions back to current law  
Delete provision on local gov planning grants that requires DOA to give preference to applications that have comprehensive plans  
Delete provision that creates DOA-administered grant program for local government planning  
Delete provision on Growth Accommodation Incentives  
Delete provision requiring Commerce to create energy codes for commercial, one and two-family dwellings  
Delete provision expanding the municipal energy efficiency improvement loan program  
Delete provision requiring DNR to prescribe forest stewardship management plan practices  
Delete provision permitting DNR to lessen permitting obligations projects reducing GHG  
Delete provision declaring statewide goals for state GHG reductions  
Delete provision creating Climate Change Council and requirement for quadrennial reports to the Legislature  
Delete provision directing DOT and DNR to estimate GHG generated by transportation  
Delete provision directing UW-Extension to develop model parking ordinances  
Delete provision directing Commerce to establish voluntary green building codes  
Delete provision directing Commerce to establish ag energy conservation standards  
Delete provision requiring nine state agencies to assess and reduce GHG emissions  
Delete provision requiring DNR to specify standards for monitoring carbon sequestration in forest lands  
Delete provision directing DNR to submit a program report on federal Cap and Trade programs

### **Based on April 13, 2010 Leg Council Memo to Reps. Black and Soletski**

Implement up to 5% conservation certificates across the board 2013 and beyond  
Delete provision on labor standards set by PSC (re-draft Gunderson Amendment LRB 2221/1)  
Modify off-ramp rate cap with a 5 year delay if % cap is hit (re-draft Montgomery Amendment LRB 2219 w/5-year delay)

**Kunkel, Mark**

**From:** Kunkel, Mark  
**Sent:** Monday, April 19, 2010 7:48 PM  
**To:** Dake, Brian  
**Subject:** RE: First List - Amendments to ASA 1 to AB 649

*per Brian:  
delete all  
s. 196.374  
change*

Okay, you want to reverse what is described in the 1st and 2nd bullet points on page 2 of that memo. If I do that, I must also reverse the changes described in the 3rd bullet point, as those changes pertain to goals that are eliminated when I reverse the 1st bullet point.

How about the 4th bullet point? That one isn't necessarily connected to the 1st bullet point, and I could retain those provisions, with slight modifications. Do you want me to retain the 4th bullet point?

And finally, I'm currently working on the amendment for the bullet point at the bottom of page 1 of that memo (LP gas and heating oil, which are referred to as unregulated fuels). I can do that amendment without also doing in the same amendment what you want in the 1st bullet point on page 2. However, it will be difficult to do what you want for the 1st bullet point on page 2 without also doing in the same amendment the bullet point at the bottom of page 1. The reason is that current law doesn't include LP gas/heating oil in the Focus program, so to incorporate the bullet point at the bottom page 1 while eliminating the bullet point at the top of page 2, I would have to create a new way to incorporate LP gas/heating oil into the current law. Therefore, I propose that the amendment for the bullet point at the top of page 2 will also incorporate the substance of the amendment that I do for the bullet point at the bottom of page 1.

Sorry for all the questions, but a lot of the sub. amend.'s provisions relate back and forth to each other.

If any of this is unclear and you want to talk, give me a call at 266-0131.

-- Mark

*plus  
299.13  
(3m)  
goals*

---

**From:** Dake, Brian  
**Sent:** Monday, April 19, 2010 7:26 PM  
**To:** Kunkel, Mark  
**Subject:** RE: First List - Amendments to ASA 1 to AB 649

Mark,

Let me clarify. Again, I am reading from the Leg. Council Memo to Huebsch – page 2, first bullet point which reads: "Replaces the fixed funding of the current program (Focus on Energy) with a system that sets funding based on current statutory criteria and a determination of the energy savings that could potentially be achieved cost-effectively by the programs and the budgets necessary to achieve those savings, as determined by the Public Service Commission." The second bullet point under this section references the 0.2% ARTs that is tied to Focus on Energy.

The amendment we are seeking retains current law with respect to Focus on Energy program – i.e. retain the fixed funding – 1.2% of annual operating revenues of investor-owned electric and gas public utilities. In my mind, any changes to s.196.374 by ASA 1 would achieve this end. Correct?

---

**From:** Kunkel, Mark  
**Sent:** Monday, April 19, 2010 6:50 PM  
**To:** Dake, Brian  
**Subject:** RE: First List - Amendments to ASA 1 to AB 649

And another thing: you want to maintain current law with respect to Focus on Energy, but you say to delete the 2% electricity consumption standard and 0.2% ARTs.

Do you want to delete all of the changes made to s. 196.374 by ASA1? (Section 196.374 deals with the statewide programs, which are referred to generally as Focus on Energy.) Also, although I know what you mean by the 0.2 percent ARTs requirement (which is a subset of the changes made to s. 196.374), I'm not sure what the 2% electricity consumption standard is. Can you clarify?

---

**From:** Dake, Brian  
**Sent:** Monday, April 19, 2010 6:41 PM  
**To:** Kunkel, Mark  
**Subject:** RE: First List - Amendments to ASA 1 to AB 649

I would actually like brand new amendments – all they should need is a new number...

Thanks...

Brian

---

**From:** Kunkel, Mark  
**Sent:** Monday, April 19, 2010 6:16 PM  
**To:** Dake, Brian  
**Subject:** FW: First List - Amendments to ASA 1 to AB 649

Brian:

I'm working on the amendments that pertain to the PSC.

Note that you requested redrafts of the following Huebsch amendments in the attached spreadsheet: LRBa2220/1, LRBa2216/1, and LRBa2222/1. However, all of the foregoing amendments are already drafted to ASA1 to AB-649. Therefore, you could use them as is. Is that okay, or do you want brand new amendments that are identical to the foregoing?

-- Mark

---

**From:** Miller, Steve  
**Sent:** Monday, April 19, 2010 4:26 PM  
**To:** Kunkel, Mark  
**Subject:** FW: First List - Amendments to ASA 1 to AB 649

---

**From:** Dake, Brian  
**Sent:** Monday, April 19, 2010 4:24 PM  
**To:** Miller, Steve  
**Subject:** First List - Amendments to ASA 1 to AB 649

Steve,

Good afternoon.

Pursuant to our conversation, please find attached:

1. A list of Amendments to be drafted to ASA 1 to AB 649. Please contact Brian Dake in Representative Montgomery's Office 266-5840 to answer any questions. I will be here until midnight and will be back in the office by 8 am tomorrow.
2. A Legislative Council Memorandum to Rep. Huebsch
3. A Legislative Council Memorandum to Reps. Black and Soletski

The Legislative Council memoranda were used as references for the drafting of each of the amendments.

Any questions, please call me.

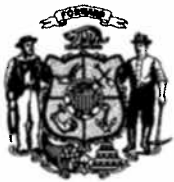
Brian Dake

Office of Rep. Montgomery  
266-5840

<< File: AB 649 Amendments List 1.xls >>  
Leg Council Memo Black-Soletski AB 649.pdf >>

<< File: Leg Council Memo Huebsch AB 649.pdf >>

<< File:



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa2415/1

MDK: *kgf*

*0-NOTE*

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 649

*Tues  
10 30 am*

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 4, line 20: delete the material beginning with “energy” and ending with
- 3 “programs;” on line 21.
- 4 **2.** Page 6, line 11: delete lines 11 to 13 and substitute:
- 5 “16.75 (12) (a) 4. “Renewable resource” has the meaning given in s. 196.378 (1)
- 6 ~~(h) 1. or 2. and includes a resource, as defined in s. 196.378 (1) (j), that derives~~
- 7 ~~electricity from hydroelectric power~~ (1r) (h).”.
- 8 **3.** Page 8, line 16: delete “196.374 (1) (am)” and substitute “196.378 (1r) (ar)”.
- 9 **4.** Page 12, line 16: delete lines 16 to 21.
- 10 **5.** Page 17, line 19: delete lines 19 and 20 and substitute:
- 11 “77.54 (30) (a) 1m. Biomass, as defined in s. 196.378 (1) (1r) (ar), that is used
- 12 for fuel sold for residential use.”.



✓  
1       **6.** Page 17, line 22: delete lines 22 to 24 and substitute:

2       "79.005 **(1b)** "Alternative energy resource" means a renewable resource, as  
3       defined in s. 196.378 ~~(1)~~ <sup>✓</sup> (1r) (h); garbage, as defined in s. 289.01 (9); or  
4       nonvegetation-based industrial, commercial, or household waste."

✓  
5       **7.** Page 28, line 14: delete that line and substitute:

6       "(b) "Biomass" has the meaning given in s. 196.378 <sup>✓</sup> (1r) (ar)."

✓  
7       **8.** Page 39, line 8: delete the material beginning with that line and ending with  
8       page 40, line 19.

✓  
9       **9.** Page 41, line 2: delete the material beginning with "This subdivision" and  
10      ending with <sup>✓</sup> line 3. <sup>196.374. " or</sup>

✓  
11      **10.** Page 42, line 3: delete lines 3 to 7.

✓  
12      **11.** Page 42, line 14: delete the material beginning with that line and ending  
13      with page 73, line 10.

✓  
14      **12.** Page 74, line 2: delete "has the meaning given in s. 196.374 (1) (am)" and  
15      substitute "means plant material, including wood, or residue; biological waste;  
16      biogas; or landfill gases. "Biomass" does not include garbage, as defined in s. 289.01  
17      (9), or nonbiological industrial, nonbiological commercial, or nonbiological household  
18      waste".

✓  
19      **13.** Page 75, line 3: delete lines 3 to 7 and substitute:

20      "**SECTION 173b.** 196.378 (1) (h) (intro.) of the statutes is renumbered 196.378  
21      (1r) (h) (intro.) and amended to read:

22      196.378 **(1r)** (h) (intro.) "Renewable resource" means any of the following: a  
23      resource that derives energy from any source other than coal, petroleum products,

nuclear power, natural gas, or nonbiological industrial, nonbiological commercial, or nonbiological household waste. "Renewable resource" includes resources deriving energy from any of the following:

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40.

**SECTION 173e.** 196.378 (1) (h) 1. a. of the statutes is renumbered 196.378 (1r)

(h) 7. and amended to read:

196.378 (1r) (h) 7. ~~A fuel~~ Fuel cell technology that uses, as determined by the commission, a renewable fuel.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40.

**SECTION 173h.** 196.378 (1) (h) 1. b. of the statutes is renumbered 196.378 (1r)

(h) 6.

**SECTION 173L** 196.378 (1) (h) 1. c. of the statutes is renumbered 196.378 (1r)

(h) 2m. and amended to read:

196.378 (1r) (h) 2m. Solar ~~thermal electric or photovoltaic~~ energy.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40.

**SECTION 173o.** 196.378 (1) (h) 1. d. of the statutes is renumbered 196.378 (1r)

(h) 3g.

**SECTION 173r.** 196.378 (1) (h) 1. e. of the statutes is renumbered 196.378 (1r)

(h) 5.

**SECTION 173u.** 196.378 (1) (h) 1. g. of the statutes is renumbered 196.378 (1r)

(h) 4.

**SECTION 173w.** 196.378 (1) (h) 1m. and 2. of the statutes are repealed.”.

**14.** Page 90, line 21: delete lines 21 to 23 and substitute:

“3. “Supplemental utility program” means a program under s. 196.374 (2) (b)

2.

4. “Utility-administered program” means a program under s. 196.374 (2) (b)

1.”.

✓  
1       **15.** Page 107, line 4: delete lines 4 to 13 and substitute:

2       “196.493 (3) REGISTER PUBLICATION. (a) The commission shall determine the  
3       effective dates of all rules promulgated by the commission, and all orders issued by  
4       the commission, that are necessary to initially implement the changes to s. 196.378  
5       by 2009 Wisconsin Act .... (this act), and other related statutory changes made by that  
6       act.”.

✓  
7       **16.** Page 108, line 17: delete lines 17 to 22 and substitute:

8       “196.65 (1g) In this section, “public utility” includes the owner or operator of  
9       a nuclear power plant, as defined in s. 196.491 (1) (j), for which the commission has  
10      issued a certificate of public convenience and necessity under s. 196.491 (3) on or  
11      after the date specified in the notice published under s. 196.493 (3) (b).”.

✓  
12      **17.** Page 109, line 5: delete lines 5 to 11 and substitute:

13      “196.66 (1g) DEFINITION. In this section, “public utility” includes the owner or  
14      operator of a nuclear power plant, as defined in s. 196.491 (1) (j), for which the  
15      commission has issued a certificate of public convenience and necessity under s.  
16      196.491 (3) on or after the date specified in the notice published under s. 196.493 (3)  
17      (b).”.

✓  
18      **18.** Page 111, line 18: delete lines 18 to 22.

✓  
19      **19.** Page 115, line 13: delete “196.374 (1) (j)” and substitute “196.378 (1r) (h)”.

✓  
20      **20.** Page 116, line 9: delete the material beginning with that line and ending  
21      with page 117, line 5.

✓  
22      **21.** Page 125, line 17: delete “196.374 (1) (am)” and substitute “196.378 (1r)  
23      (ar)”.

- 1           **22.** Page 134, line 13: delete "196.374 (1) (j)" and substitute "196.378 (1r) (h)".
- 2           **23.** Page 140, line 8: delete "~~196.378 (1) (h)~~ 196.374 (1) (j)" and substitute
- 3           "196.378 ~~(1)~~ (1r) (h)".
- 4           **24.** Page 145, line 18: delete lines 18 to 25.
- 5           **25.** Page 146, line 6: delete "AND CAPITAL INVESTMENT".
- 6           **26.** Page 147, line 5: delete the material beginning with that line and ending
- 7           with page 148, line 18.
- 8           **27.** Page 149, line 17: delete lines 17 to 22.
- 9           **28.** Page 150, line 9: delete lines 9 to 11.

10

(END)

D-Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2415/1dn

MDK:...

kgf

Date

Rep. Montgomery:

This amendment deletes the changes to the Focus on Energy program under s. ~~199~~ 374, and related changes, as well as the statewide goals in s. 299.03<sup>(3m)</sup>.

196

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2415/1dn  
MDK:kjf:ph

April 20, 2010

Rep. Montgomery:

This amendment deletes the changes to the Focus on Energy program under s. 196.374, and related changes, as well as the statewide goals in s. 299.03 (3m).

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)